**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.2803 OF 2006

Manohar A. Jadhav and anr. ..Applicants.
Vs.
The State of Maharashtra. ..Respondent.

Mr.S.V.Kotwal, Advocate for the Applicants.
Ms. S.V. Gajare,APP. for the State.

**CORAM : R.S. MOHITE,J.**
**DATED : 11/8/2006.**

**P.C.**

1. This is an application for grant of bail. The applicants are shown as an accused in C.R.No.334/2004 registered by Chaturshrungi Police Station for alleged offences under Section 302, 324, 331, 385, 504, 201 read with 34 of the I.P.C. and under Section 84(1) of the Bombay Prohibition Act. Both the applicants are police officers. The allegation against them is that on the night of 30.8.2004 they assaulted deceased Uday Bhandge in such a manner that he died on the spot. The deceased and his friend who is complainant by name Sachin Rajguru were going on scooty and while returning they were caught by the police for committing offence of theft of petrol from the car. They were taken to Aundh Police Chowki. The statement of the complainant states that five policemen who were under the influence of liquor beat the deceased. They demanded money from the deceased for releasing him from the chowki and when he

refused to pay money then they assaulted him. Out of these five policemen, three of the policemen are said to have assaulted the deceased by iron pipe, sticks and belt and the remaining two policemen assaulted the deceased by fist and kick blows. It appears that initially the investigation was done by Chaturshrungi Police Station. I have gone through the record. Prima facie, it appears to be the opinion of the doctor that the injuries were caused by hard and blunt object by making a suggestion to the doctor that deceased died in an accident when he was under the influence of toddy. It appears that the the prosecution has not bothered to hold any identification parade and ultimately when the investigation was taken by CID, parade was held on 18.3.2006. In this identification parade, the complainant has identified three of the accused by names Shirke, Gaikwad and the present applicant No.2 Ravindra Chakre and subsequently the identification parade was cancelled on 18.3.2006. The second identification parade was held on 21.3.2006 in which the present applicant No.2 Ravindra Chakre was identified but the present applicant No.1 Manohar Jadhav was not identified by the witnesses. I find from the above fact that the identification parade has been held after lapse of more than 1.1/2 years. The police have recorded the statement of Mr. Bhuge on 1.10.2005 and he categorically stated that the complainant has pointed

out the present applicant No.1 as one of the person who had brutally assaulted the deceased. In the statement of Sachin recorded by the CID he has attributed overt act to five policemen. Bhuge also asserts presence of both these applicants on the spot where the deceased was assaulted. It was sought to be argued that the case of the present applicants was par with one Shirke who was identified in the identification parade. Shirke was armed with iron bar with which injuries were caused. It was pointed out that Shirke was granted bail by the Sessions Court and therefore, argument was that this is a fit case for grant of bail. I have gone through the order passed of the Sessions Court. I do not find that the statement of the complainant Sachin dated 19.9.2005 has been dealt with by the Sessions Court. The said statement also implicated accused Mr.Shirke. It appears that Shirke has been given bail without noticing this statement and its contents. It would be for the State to decide as to what action they would need to take. For the present, I am not inclined to grant bail to the applicants. Hence, application is rejected. It is made clear that the observations made in this order have been made for the limited purpose for deciding this application and should not be used at the time of trial.

**(R. S. MOHITE, J.)**